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# PATENT COOPERATION TREATY

**PCT**

**NOTIFICATION OF ELECTION**

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Commissioner  
US Department of Commerce  
United States Patent and Trademark  
Office, PCT  
2011 South Clark Place Room  
CP2/5C24  
Arlington, VA 22202  
ETATS-UNIS D'AMERIQUE

in its capacity as elected Office

Date of mailing:

04 October 2001 (04.10.01)

International application No.:

PCT/US00/08114

Applicant's or agent's file reference:

604.31-PCT

International filing date:

24 March 2000 (24.03.00)

Priority date:

Applicant:

BLAKELEY, Thomas et al

1. The designated Office is hereby notified of its election made:



in the demand filed with the International preliminary Examining Authority on:

16 November 2000 (16.11.00)



in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was



was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Facsimile No.: (41-22) 740.14.35

Authorized officer:

J. Zahra

Telephone No.: (41-22) 338.83.38

## PATENT COOPERATION TREATY

PCT

REC'D 31 AUG 2001

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

PCT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 604.31-PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US00/08114	International filing date (day/month/year) 24 March 2000 (24.03.2000)	Priority date (day/month/year) NONE
International Patent Classification (IPC) or national classification and IPC IPC(7): G06F 17/60 and US Cl.: 705/14		
Applicant MINDARROW SYSTEMS, INC.		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 3 sheets, including this cover sheet.  
☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 2 sheets.

- This report contains indications relating to the following items:
  - ☒ Basis of the report
  - ☐ Priority
  - ☐ Non-establishment of report with regard to novelty, inventive step and industrial applicability
  - ☐ Lack of unity of invention
  - ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - ☐ Certain documents cited
  - ☐ Certain defects in the international application
  - ☐ Certain observations on the international application

Date of submission of the demand 16 November 2000 (16.11.2000)	Date of completion of this report 12 July 2001 (12.07.2001)
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231 Facsimile No. (703)305-3230	Authorized officer James Trammell <i>James R. Matthews</i> Telephone No. (703)305-9700

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US00/08114

**I. Basis of the report****1. With regard to the elements of the international application:\***

- ☐ the international application as originally filed.
- ☒ the description:  
pages 1-8 as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
pages NONE, as originally filed  
pages NONE, as amended (together with any statement) under Article 19  
pages NONE, filed with the demand  
pages 9 and 10, filed with the letter of 10 May 2001 (10.05.2001)
- ☒ the drawings:  
pages 1-3, as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages NONE, as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

**4. ☒ The amendments have resulted in the cancellation of:**

- ☒ the description, pages NONE
- ☒ the claims, Nos. NONE
- ☒ the drawings, sheets/fig NONE

**5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US00/08114

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>1-15</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-15</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-15</u>	YES
	Claims <u>NONE</u>	NO

**2. CITATIONS AND EXPLANATIONS (Rule 70.7)**

Claims 1-15 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest a method of advertising wherein a first individualized electronic commercial is sent to a recipient, tracking the response to the first commercial and creating a second electronic commercial manually individualized based on the response to the first commercial.

## IN THE INTERNATIONAL BUREAU (WIPO)

International Application Number	International Filing Date	International Earliest Priority Date
PCT/US00/08114	24 March 2000	None

Title of Invention: **Creation of Custom Messages Using Virtual Prospecting**  
Applicant: **MindArrow Systems, Inc.**

International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20  
Switzerland

**LETTER FOR PCT ARTICLE 19**  
**(PCT SECTION 205)**

1. Applicant herewith submits replacement sheets(s) number(ed) to replace sheet(s) number(ed) originally filed for this application.
2. In respect of each claim appearing in the international application based on the replacement sheets submitted herewith, and in accordance with PCT Section 205, the following claim(s) is/are:
  - (i) unchanged: claim(s) 2 - 15
  - (ii) cancelled: claim(s) 0
  - (iii) new: claim(s) 0
  - (iv) replacement of one or more claims as filed, as follows: 1
  - (v) the result of the division of one or more claims as filed, as follows: 0

Dear Sir:

The Search Report dated 18 September 2000 designated 8 references as being relevant to patentability. In response, the claims are amended herein as follows, and the cited references are addresses *seriatim* below.

1. A method of advertising, comprising:  
sending a first individualized electronic commercial to a recipient;  
tracking a first response of the recipient to the first electronic commercial;

creating a second electronic commercial individualized at least in part on the response of the recipient to the commercial;  
sending the second electronic commercial to the recipient; and  
tracking a second response of the recipient to the second electronic commercial.

**Overview of the cited references and the claimed subject matter**

The pending claims all recite subject matter that is novel in electronic direct marketing - namely creating individualized commercials based upon responses to previous commercials, and tracking responses to both the original and the individualized commercials.

None of the cited references, either by themselves or in any combination, contain those elements. Instead, the references all teach selecting preexisting advertisements, and possibly customizing them to some extent based upon a preferences or demographics database. But that is entirely different from creating individualized commercials to send to a recipient based upon a response to an earlier commercial. .

**Angles et al. (Angles) (US Patent 5933811)**

The Office considers claims 1, 3-6, 8, and 10-13 to be anticipated by Angles, and claims 2, 7, 9, and 14-15 to be obvious over Angles. The applicant disagrees with that position. Angles fails to include every claimed limitation (precluding anticipation), and fails to teach, suggest or motivate one to arrive at the claimed invention (precluding obviousness).

**The Claimed Subject Matter Is Not Anticipated by Angles**

The rule is that anticipation is only appropriate where every element in a claim is satisfied in a single reference. 35 USC §102. In this case claim 1 (and dependent claims 3-6, 8, and 10-13 based on their dependence on claim 1), recites "creating a second electronic commercial individualized at least in part on the response of the recipient..." and "tracking [the] second response". Angles fails to teach a second electronic commercial (advertisement) of any type, let alone "creating" the second commercial "based on the response of the recipient" or "tracking [the] second response."

It is possible for a claim to be anticipated under the doctrine of inherency, but that doctrine is inapplicable. "If the prior art reference does not expressly set forth a particular element of a claim, that reference may still anticipate if that element is "inherent" in its

disclosure. To establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. [references omitted] . . . Inherency, however, may not be established by probabilities or possibilities." The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *In re Anthony J. Robertson and Charles L. Scripps*, 169 F.3d 743, 745, 49 USPQ 1949 (Fed. Cir. 1999).

In our case there is no extrinsic evidence of which the applicant is aware that would "make clear that the missing descriptive matter is necessarily present in the thing described in the reference". Quite the contrary. The teachings of Angles work perfectly well without any reliance on second commercials, on-the-fly creation of second commercials, or tracking responses to second commercials.

#### **Angles Teaches Against The Claimed Subject Matter**

The rejected claims all contain the limitations of "creating a second electronic commercial individualized at least in part on the response of the recipient..." and "tracking [the] second response". Angles teaches against the claimed limitations by relying upon a consumer profile to select advertisements. Selection of pre-existing advertisements based on a database is inconsistent with creating individualized commercials based on a response to a previous commercial.

A reference that teaches against the claimed subject matter can only be used to establish obviousness if there is something in the prior art that would have caused those skilled in the art to disregard the teachings of the reference in order to produce the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.* 721 F.2d 1540, 1552, 220 U.S.P.Q. 303, 314 (Fed. Cir. 1983), cert. Denied, 469 U.S. 851, 83 L. Ed. 2d 107, 105 S. Ct. 172 (1984). Neither the language of Angles, nor any inference that can be drawn from it, nor any prior knowledge we know of would cause those skilled in the art of electronic direct marketing to disregard the teachings of the reference.

#### **Angles Fails To Teach, Suggest, Or Motivate**

Even if Angles did not teach against the claimed inventions, there is nothing that teaches, suggests, or motivates one skilled in the art to "[create] a second electronic



commercial individualized at least in part on the response of the recipient..." and "[track] [the] second response".

**Davis et al. (Davis) (US Patent 5796952)**

The Office considers claims 1-7, and 10-14 to be obvious over Davis. The applicant disagrees, especially in view of the amendments herein. Davis teaches against the claimed subject matter, and even if it didn't, it fails to teach, suggest, or motivate one of ordinary skill in the field to arrive at the claimed invention.

**Davis Teaches Against The Claimed Subject Matter**

As amended herein, the rejected claims all contain the limitations of "sending a first individualized electronic commercial to a recipient" and "creating a second electronic commercial individualized at least in part on the response of the recipient..." and "tracking [the] second response".

Davis teaches against the claimed limitations by relying upon a consumer profile to select advertisements. The profile is generated by user click to banner ads and the like, which are not individualized commercials. (see e.g., Davis specification, col. 13, line 56 to col. 14, line 21). In particular, Davis monitors users and then uses "the monitored information and client identifying indicia...for automatically serving out files assembled according to user interests and preferences" (see Davis Abstract).

Assembling of advertisements based on a database of user interests and preferences is inconsistent with the claimed method of creating individualized commercials based upon a response to a previous individualized commercial. In that manner Davis teaches against the current claims.

**Davis Fails To Teach, Suggest, Or Motivate**

Even if Davis did not teach against the current claims, Davis certainly fails to teach, suggest, or motivate one of ordinary skill to arrive at the claimed invention.

**Hanson et al. (Hanson) (US Patent 5974398)**

The Office considers claims 1, 3-7, 9, 11-13, and 15 to be obvious over Hanson. The applicant again disagrees, especially in view of the amendments herein.

As amended herein, the rejected claims all contain the limitations of "sending a first individualized electronic commercial to a recipient" and "creating a second electronic commercial individualized at least in part on the response of the recipient..." and "tracking [the] second response".

Hanson teaches an information and entertainment service in which customer interest profiles and online service usage are stored on a database, and provided to advertisers. The advertisers use that information to bid on having their advertisements sent out to particular recipients. (Hanson specification, col. 1, lines 48 - 53 ). Nowhere is there any teaching, suggestion, or motivation to "[send] a first individualized electronic commercial to a recipient" and "[create] a second electronic commercial individualized at least in part on the response of the recipient..." and "[track the] second response".

**Merriman et al. (Merriman) (US Patent 5948061)**

The Office considers claims 1, 3-8, and 10-15 to be obvious over Merriman. The applicant again disagrees, especially in view of the amendments herein.

As amended herein, the rejected claims all contain the limitations of "sending a first individualized electronic commercial to a recipient" and "creating a second electronic commercial individualized at least in part on the response of the recipient..." and "tracking [the] second response".

Merriman tracks users' use of advertisements, and compiles statistics on such use to permit targeting of advertisements to individual users. (see Merriman abstract). Merriman then uses that information to send standard advertising to the users. The first set of advertising is not individualized, and the subsequent set of advertising is also not individualized. Thus, there is no teaching, suggestion, or motivation to "[send] a first individualized electronic commercial to a recipient" and "[create] a second electronic commercial individualized at least in part on the response of the recipient..." and "[track the] second response".

**Rakavy et al. (Rakavy) (US Patent 5913040)**

The Office considers claims 1, and 7 to be obvious over Rakavy. The applicant again disagrees, especially in view of the amendments herein.

Rakavy "[selects] advertisements and other information from a computer network database based on user defined preferences" (Rakavy Abstract). The only reference to the advertisements being individualized occurs in the claims, where the individualization apparently results from selecting the advertisements from a database of advertisement items stored on a network" (see Rakavy claim 1). There is certainly no teaching, suggestion, or motivation to individualize the advertisements based on the response to a previously individualized advertisement as presently claimed. Moreover, Rakavy only mentions tracking in the claims, where the tracking refers to "tracking the remaining untransmitted portion of the advertisement item" (see Rakavy claim 1). That provision is inconsistent with the claimed limitation of tracking a response to an advertisement.

**Robinson (US Patent 5918014)**

The Office considers claims 1, 8, and 15 to be obvious over Robinson. The applicant disagrees, especially in view of the amendments herein.

Robinson recites an invention that "combines techniques for: determining the subject's community, and determining which ads to show based on characteristics of the subject's community." This reference does track a user's activities, but it does not teach, suggest, or motivate one of ordinary skill to individualize commercials based on the tracking of responses to other individualized commercials.

**Henrick et al. (Henrick) (US Patent 6055510)**

The Office considers claims 1, 3, and 9-10 to be obvious over Henrick. The applicant disagrees, especially in view of the amendments herein. Henrick teaches against the claimed subject matter, and even if it didn't, it fails to teach, suggest, or motivate one of ordinary skill in the field to make the proposed substitution, combination, or other modification.

Henrick monitors customer activities in visiting various web pages, and sends out commercials according to calculated preferences and other characteristics derived from such monitoring. That teaching is completely opposed to the claimed systems and methods in which the information used to individualize commercials is obtained by tracking responses to previously sent individualized commercials.

Even if Henrick did not teach against the claimed subject matter, Henrick fails to teach, suggest, or motivate one of ordinary skill to "[send] a first individualized electronic

commercial to a recipient" and "[create] a second electronic commercial individualized at least in part on the response of the recipient..." and "[track the] second response".

**Altia Inc. (Altia)**

The Office considers claims 1, and 9 to be obvious over Altia. The applicant disagrees. Altia fails to teach, suggest, or motivate one of ordinary skill in the field to make the claimed substitution, combination, or other modification.

Altia teaches an electronic form of advertising that lets the local television or radio station's audiences send and receive animated and interactive e-mail advertisements. Altia uses e-mail, but has nothing do with subject matter that tracks responses and creates individualized commercials. Altia fails to teach, suggest, or motivate one of ordinary skill to "[send] a first individualized electronic commercial to a recipient" and "[create] a second electronic commercial individualized at least in part on the response of the recipient..." and "[track the] second response".

**Combinations**

There is no teaching, suggestion, or motivation to combine the cited references, and even if there were, no combination of the cited references contains all of the claimed limitations.

Respectfully submitted,



**Robert D. Fish, Esq.**

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1440 N. Harbor Blvd., Suite 706  
Fullerton, CA 92835 USA  
Tel: 714-449-2337  
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## CLAIMS

What is claimed is:

1. A method of advertising, comprising:  
sending a first individualized electronic commercial to a recipient;  
tracking a first response of the recipient to the first electronic commercial;  
creating a second electronic commercial individualized at least in part on the  
response of the recipient to the commercial;  
sending the second electronic commercial to the recipient; and  
tracking a second response of the recipient to the second electronic commercial.
2. The method of claim 1 wherein the step of sending the first electronic commercial to the recipient includes manually selecting the recipient from a list of prospective recipients.
3. The method of claim 1 wherein the step of sending the first electronic commercial to the recipient includes selecting the first commercial from a list of available commercials.
4. The method of claim 1 wherein the step of sending the first electronic commercial to the recipient includes assembling the first electronic commercial from a plurality of alternative components based at least in part upon a previously obtained marketing characteristic of the recipient.
5. The method of claim 1 wherein the step of creating a second electronic commercial includes assembling the second electronic commercial from a plurality of alternative components based in part upon a previously obtained marketing characteristic of the recipient.
6. The method of claim 1 wherein the step of sending the first electronic commercial to the recipient includes assembling the first electronic commercial from a plurality of alternative components based at least in part upon a first previously obtained marketing characteristic of the recipient, and the step of creating a

second electronic commercial includes assembling the second electronic commercial from the plurality of alternative components based in part upon a second previously obtained marketing characteristic of the recipient.

7. The method of claim 1 wherein both the first electronic commercial and the second electronic commercial are executable files.
8. The method of claim 1 wherein the commercial includes an identification code.
9. The method of claim 1 wherein the commercial is communicated to the recipient as an attachment to an e-mail.
10. The method of claim 1 wherein the commercial includes a hyperlink to a web site.
11. The method of claim 1 wherein the step of tracking includes determining whether the first electronic commercial is opened.
12. The method of claim 1 wherein the step of tracking includes initiating a substantially synchronous link between the recipient and a person causing the first electronic commercial to be sent to the recipient.
13. The method of claim 12 wherein the substantially synchronous link comprises a telephone call.
14. The method of claim 12 wherein the substantially synchronous link comprises a chat site.
15. The method of claim 1 wherein at least one of the steps of sending a first electronic commercial to a recipient and creating a second electronic commercial individualized at least in part on the response of the recipient to the commercial are executed automatically by an electronic agent.

REPLACED BY  
ART 34 AND DT

## CLAIMS

What is claimed is:

1. A method of advertising, comprising:  
sending a first electronic commercial to a recipient;  
5 tracking a first response of the recipient to the first electronic commercial;  
creating a second electronic commercial individualized at least in part on the  
response of the recipient to the commercial;  
sending the second electronic commercial to the recipient; and  
tracking a second response of the recipient to the second electronic commercial.
- 10 2. The method of claim 1 wherein the step of sending the first electronic commercial  
to the recipient includes manually selecting the recipient from a list of prospective  
recipients.
3. The method of claim 1 wherein the step of sending the first electronic commercial  
to the recipient includes selecting the first commercial from a list of available  
15 commercials.
4. The method of claim 1 wherein the step of sending the first electronic commercial  
to the recipient includes assembling the first electronic commercial from a plurality  
of alternative components based at least in part upon a previously obtained  
marketing characteristic of the recipient.
- 20 5. The method of claim 1 wherein the step of creating a second electronic commercial  
includes assembling the second electronic commercial from a plurality of  
alternative components based in part upon a previously obtained marketing  
characteristic of the recipient.
- 25 6. The method of claim 1 wherein the step of sending the first electronic commercial  
to the recipient includes assembling the first electronic commercial from a plurality  
of alternative components based at least in part upon a first previously obtained  
marketing characteristic of the recipient, and the step of creating a second  
electronic commercial includes assembling the second electronic commercial from

the plurality of alternative components based in part upon a second previously obtained marketing characteristic of the recipient.

7. The method of claim 1 wherein both the first electronic commercial and the second electronic commercial are executable files.

5 8. The method of claim 1 wherein the commercial includes an identification code.

9. The method of claim 1 wherein the commercial is communicated to the recipient as an attachment to an e-mail.

10. The method of claim 1 wherein the commercial includes a hyperlink to a web site.

10 11. The method of claim 1 wherein the step of tracking includes determining whether the first electronic commercial is opened.

12. The method of claim 1 wherein the step of tracking includes initiating a substantially synchronous link between the recipient and a person causing the first electronic commercial to be sent to the recipient.

15 13. The method of claim 12 wherein the substantially synchronous link comprises a telephone call.

14. The method of claim 12 wherein the substantially synchronous link comprises a chat site.

20 15. The method of claim 1 wherein at least one of the steps of sending a first electronic commercial to a recipient and creating a second electronic commercial individualized at least in part on the response of the recipient to the commercial are executed automatically by an electronic agent.



**AMENDED CLAIMS**

[received by the International Bureau on 17 November 2000 (17.11.00);  
original claim 1 amended; remaining claims unchanged (1 page)]

1. A method of advertising, comprising:  
sending a first individualized electronic commercial to a recipient;  
tracking a first response of the recipient to the first electronic commercial;  
creating a second electronic commercial individualized at least in part on the  
response of the recipient to the commercial;  
sending the second electronic commercial to the recipient; and  
tracking a second response of the recipient to the second electronic commercial.
2. The method of claim 1 wherein the step of sending the first electronic commercial to the recipient includes manually selecting the recipient from a list of prospective recipients.
3. The method of claim 1 wherein the step of sending the first electronic commercial to the recipient includes selecting the first commercial from a list of available commercials.
4. The method of claim 1 wherein the step of sending the first electronic commercial to the recipient includes assembling the first electronic commercial from a plurality of alternative components based at least in part upon a previously obtained marketing characteristic of the recipient.
5. The method of claim 1 wherein the step of creating a second electronic commercial includes assembling the second electronic commercial from a plurality of alternative components based in part upon a previously obtained marketing characteristic of the recipient.
6. The method of claim 1 wherein the step of sending the first electronic commercial to the recipient includes assembling the first electronic commercial from a plurality of alternative components based at least in part upon a first previously obtained marketing characteristic of the recipient, and the step of creating a

COPY

1/4

## PCT REQUEST

604.31-PCT

Original (for SUBMISSION) - printed on 24.03.2000 03:08:52 PM

0	For receiving Office use only	
0-1	International Application No.	
0-2	International Filing Date	
0-3	Name of receiving Office and "PCT International Application"	10/018202
0-4	Form - PCT/RO/101 PCT Request Prepared using	PCT-EASY Version 2.90 (updated 01.01.2000)
0-5	Petition The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty	
0-6	Receiving Office (specified by the applicant)	United States Patent and Trademark Office (USPTO) (RO/US)
0-7	Applicant's or agent's file reference	604.31-PCT
I	Title of invention	CREATION OF CUSTOM MESSAGES USING VIRTUAL PROSPECTING
II	Applicant	
II-1	This person is:	applicant only
II-2	Applicant for	all designated States except US
II-4	Name	ECOMMERCIAL.COM, INC.
II-5	Address:	101 Enterprise, #340 Aliso Viejo, CA 92656 United States of America
II-6	State of nationality	US
II-7	State of residence	US
II-8	Telephone No.	(949) 916-8705
II-9	Facsimile No.	(949) 916-8713
III-1	Applicant and/or inventor	
III-1-1	This person is:	applicant and inventor
III-1-2	Applicant for	US only
III-1-4	Name (LAST, First)	BLAKELEY, Thomas
III-1-5	Address:	eCommercial.com, Inc. 101 Enterprise, #340 Aliso Viejo, CA 92656 United States of America
III-1-6	State of nationality	US
III-1-7	State of residence	US

## PCT REQUEST

604.31-PCT

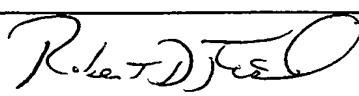
Original (for SUBMISSION) - printed on 24.03.2000 03:08:52 PM

III-2	Applicant and/or inventor	<b>applicant and inventor</b> <b>US only</b> <b>MCEWAN, Rick</b> <b>eCommercial.com, Inc.</b> <b>101 Enterprise, #340</b> <b>Aliso Viejo, CA 92656</b> <b>United States of America</b>
III-2-1	This person is:	
III-2-2	Applicant for	
III-2-4	Name (LAST, First)	
III-2-5	Address:	
III-2-6	State of nationality	
III-2-7	State of residence	
IV-1	Agent or common representative; or address for correspondence The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as:	<b>agent</b>  <b>FISH &amp; ASSOCIATES, LLP</b> <b>1440 N. Harbor Blvd, Suite 706</b> <b>Fullerton, CA 92835</b> <b>United States of America</b> <b>(714) 449-2337</b> <b>(714) 449-2339</b>
IV-1-1	Name	
IV-1-2	Address:	
IV-1-3	Telephone No.	
IV-1-4	Facsimile No.	
IV-2	Additional agent(s)	<b>additional agent(s) with same address as first named agent</b> <b>FISH, Robert; ZOETEWEEY, David; POTEAT, Sandie</b>
IV-2-1	Name(s)	
V	Designation of States	
V-1	Regional Patent (other kinds of protection or treatment, if any, are specified between parentheses after the designation(s) concerned)	
		<b>AP: GH GM KE LS MW SD SL SZ TZ UG ZW and any other State which is a Contracting State of the Harare Protocol and of the PCT</b> <b>EA: AM AZ BY KG KZ MD RU TJ TM and any other State which is a Contracting State of the Eurasian Patent Convention and of the PCT</b> <b>EP: AT BE CH&amp;LI CY DE DK ES FI FR GB GR IE IT LU MC NL PT SE and any other State which is a Contracting State of the European Patent Convention and of the PCT</b> <b>OA: BF BJ CF CG CI CM GA GN GW ML MR NE SN TD TG and any other State which is a member State of OAPI and a Contracting State of the PCT</b>

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V-2	National Patent (other kinds of protection or treatment, if any, are specified between parentheses after the designation(s) concerned)	AE AL AM AT (patent and utility model) AU AZ BA BB BG BR BY CA CH&LI CN CR CU CZ (patent and utility model) DE (patent and utility model) DK (patent and utility model) DM EE (patent and utility model) ES FI (patent and utility model) GB GD GE GH GM HR HU ID IL IN IS JP KE KG KP KR KZ LC LK LR LS LT LU LV MA MD MG MK MN MW MX NO NZ PL PT RO RU SD SE SG SI SK (patent and utility model) SL TJ TM TR TT TZ UA UG US UZ VN YU ZA ZW	
V-5	Precautionary Designation Statement In addition to the designations made under items V-1, V-2 and V-3, the applicant also makes under Rule 4.9(b) all designations which would be permitted under the PCT except any designation(s) of the State(s) indicated under item V-6 below. The applicant declares that those additional designations are subject to confirmation and that any designation which is not confirmed before the expiration of 15 months from the priority date is to be regarded as withdrawn by the applicant at the expiration of that time limit.		
V-6	Exclusion(s) from precautionary designations	NONE	
VI	Priority claim	NONE	
VII-1	International Searching Authority Chosen	United States Patent and Trademark Office (USPTO) (ISA/US)	
VIII	Check list	number of sheets	electronic file(s) attached
VIII-1	Request	4	-
VIII-2	Description	8	-
VIII-3	Claims	2	-
VIII-4	Abstract	1	abstract.txt
VIII-5	Drawings	3	-
VIII-7	TOTAL	18	
VIII-8	Accompanying items	paper document(s) attached	electronic file(s) attached
VIII-8	Fee calculation sheet	✓	-
VIII-10	Copy of general power of attorney		-
VIII-16	PCT-EASY diskette	-	diskette
VIII-18	Figure of the drawings which should accompany the abstract	1	
VIII-19	Language of filing of the international application	English	
IX-1	Signature of applicant or agent		
IX-1-1	Name (LAST, First)	FISH, Robert	

## PCT REQUEST

604.31-PCT

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10-1	Date of actual receipt of the purported international application	
10-2	Drawings:	
10-2-1	Received	
10-2-2	Not received	
10-3	Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application	
10-4	Date of timely receipt of the required corrections under PCT Article 11(2)	
10-5	International Searching Authority	ISA/US
10-6	Transmittal of search copy delayed until search fee is paid	

## FOR INTERNATIONAL BUREAU USE ONLY

11-1	Date of receipt of the record copy by the International Bureau	
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COPY



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## PCT (ANNEX - FEE CALCULATION SHEET)

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(This sheet is not part of and does not count as a sheet of the international application)

0	For receiving Office use only	
0-1	International Application No.	
0-2	Date stamp of the receiving Office	
0-4	Form - PCT/RO/101 (Annex)	
0-4-1	PCT Fee Calculation Sheet Prepared using	PCT-EASY Version 2.90 (updated 01.01.2000)
0-9	Applicant's or agent's file reference	604.31-PCT
2	Applicant	ECOMMERCIAL.COM, INC., et al.
12	Calculation of prescribed fees	fee amount/multiplier      total amounts (USD)
12-1	Transmittal fee T	⇒ 240
12-2	Search fee S	⇒ 700
12-3	International fee	
	Basic fee (first 30 sheets) b1	427
12-4	Remaining sheets	0
12-5	Additional amount (X)	10
12-6	Total additional amount b2	0
12-7	b1 + b2 = B	427
12-8	Designation fees	
	Number of designations contained in international application	83
12-9	Number of designation fees payable (maximum 8)	8
12-10	Amount of designation fee (X)	92
12-11	Total designation fees D	736
12-12	PCT-EASY fee reduction R	-132
12-13	Total International fee (B+D-R) I	⇒ 1,031
12-17	TOTAL FEES PAYABLE (T+S+I+P)	⇒ 1,971
12-19	Mode of payment	cheque
12-20	Deposit account instructions The receiving Office:	United States Patent and Trademark Office (USPTO) (RO/US)
12-20-2	is hereby authorized to charge any deficiency or credit any over-payment in the total fees indicated above to my deposit account	✓ 
12-20-3	is hereby authorized to charge the fee for preparation and transmittal of the priority document to the International Bureau of WIPO to my deposit account	✓ 
12-21	Deposit account No.	500341
12-22	Date	24 March 2000 (24.03.2000)

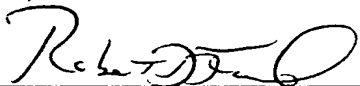
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PCT (ANNEX - FEE CALCULATION SHEET)

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12-23	Name and signature	FISH, Robert 
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VALIDATION LOG AND REMARKS

13-2-4	Validation messages Priority	Green? No priority of an earlier application has been claimed. Please verify
13-2-6	Validation messages Contents	Yellow Accompanying item "copy of general power of attorney" has not been indicated as enclosed.

**(19) World Intellectual Property Organization**  
**International Bureau**



**(43) International Publication Date**  
**4 October 2001 (04.10.2001)**

**(10) International Publication Number**  
**WO 01/73641 A1**

## PCT

**(51) International Patent Classification<sup>6</sup>:** **G06F 17/60**

**(21) International Application Number:** **PCT/US00/08114**

**(22) International Filing Date:** **24 March 2000 (24.03.2000)**

**(25) Filing Language:** **English**

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**(71) Applicant (for all designated States except US):** **MIN-DARROW SYSTEMS, INC.** [US/US]; 101 Enterprise, #340, Aliso Viejo, CA 92656 (US).

**(72) Inventors; and**

**(75) Inventors/Applicants (for US only):** **BLAKELEY, Thomas** [US/US]; Mindarrow Systems, Inc., 101 Enterprise, #340, Aliso Viejo, CA 92656 (US). **MCEWAN,**

**Rick [US/US]; Mindarrow Systems, Inc., 101 Enterprise,  
#340, Aliso Viejo, CA 92656 (US).**

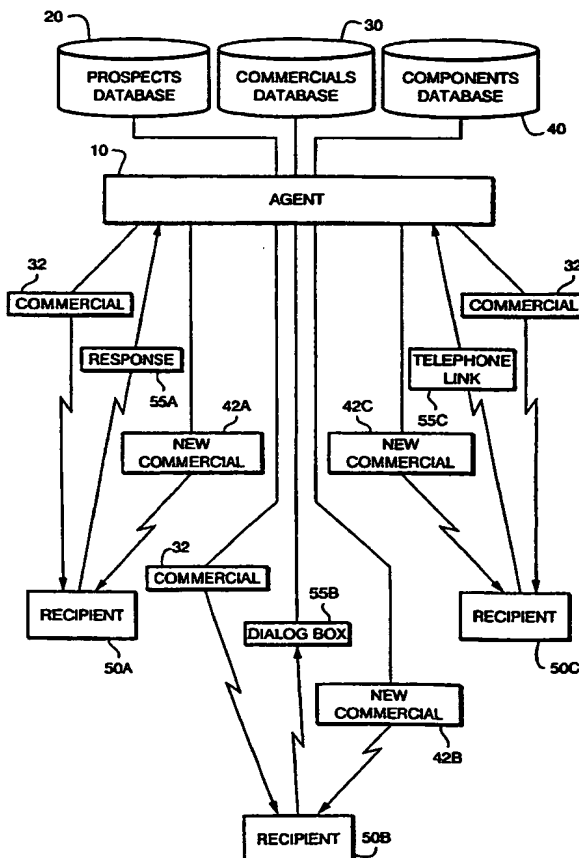
**(74) Agents: FISH, Robert et al.; Fish & Associates, LLP,**  
Suite 706, 1440 N. Harbor Boulevard, Fullerton, CA 92835  
(US).

**(81) Designated States (national):** AE, AL, AM, AT, AT (utility model), AU, AZ, BA, BB, BG, BR, BY, CA, CH, CN, CR, CU, CZ, CZ (utility model), DE, DE (utility model), DK, DK (utility model), DM, EE, EE (utility model), ES, FI, FI (utility model), GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, NO, NZ, PL, PT, RO, RU, SD, SE, SG, SI, SK, SK (utility model), SL, TJ, TM, TR, TT, TZ, UA, UG, US, UZ, VN, YU, ZA, ZW.

**(84) Designated States (regional):** ARIPO patent (GH, GM, KE, LS, MW, SD, SL, SZ, TZ, UG, ZW), Eurasian patent

*[Continued on next page]*

**(54) Title: CREATION OF CUSTOM MESSAGES USING VIRTUAL PROSPECTING**



**(57) Abstract:** A response (55A) of a recipient (50A) to a first electronic commercial (32) is tracked, and used to custom design a second commercial (42A). The second electronic commercial (42A) is then sent to the recipient (50A), and a response to the second commercial (42A) is again tracked. Manual intervention is contemplated at several points, including selection of the first commercial (32) and creation of second and subsequent custom commercials. The various commercials may advantageously comprise executable files, and an identification code, and are preferably communicated to the recipient as an attachment to an e-mail. Commercials may also advantageously include a hyperlink to a web site, and may initiate a substantially synchronous link such as telephone call or chat site between the recipient (50A) and a person causing the first electronic commercial (32) to be sent to the recipient (50A).

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(AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE), OAPI patent (BF, BJ, CF, CG, CI, CM, GA, GN, GW, ML, MR, NE, SN, TD, TG).

*For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.*

**Published:**

- with international search report
- with amended claims

# INTERNATIONAL SEARCH REPORT

International application No.

PCT/US00/08114

## A. CLASSIFICATION OF SUBJECT MATTER

IPC(6) : G06F 17/60

US CL : 705/14

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 705/14, 10, 26, 27, 1

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

East, Dialog, Proquest Direct

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 5,933,811 A (ANGLES et al) 03 August 1999 (03.08.1999) See Col. 2, lines 45-50; Col. 3, lines 1-30 and 54-65; Col. 4, lines 5-16; Col. 8, lines 10-20 and 55-60; Col. 9, lines 3-55; Col. 15 line 43-Col. 16 line 15; Col. 20, lines 10-37 and 64-67, Figure 1	1, 3-6, 8, 10-13
Y	US 5,796,952 A (DAVIS et al) 18 August 1998 (18.08.1998) See Col. 4, lines 33-37; Col. 4 line 64-Col. 5 line 3; Col. 13 line 54-Col. 15 line 5; Col. 18, lines 45-60	2, 7, 9, 14-15
Y	US 5,974,398 A (HANSON et al) 26 October 1999 (26.10.1999) See Col. 3, lines 1-40; Col. 5, lines 10-16 and 45-52; Col. 5 line 65-Col. 6 line 5; Col. 6, lines 25-45; Col. 7, lines 5-10; Col. 8, lines 25-44; Col. 10, lines 19-40	1-7, 10-14
Y	US 5,948,061 A (MERRIMAN et al) 07 September 1999 (07.09.1999) See Col. 1, lines 58-63; Col. 2, lines 25-35; Col. 3, lines 18-24; Col. 3 line 50-Col. 4 line 11; Col. 4, lines 50-55, Col. 5 line 40-Col. 6 line 48; Col. 6 line 60-Col. 7 line 20	1, 3-7, 9, 11-13, 15
Y	US 5,913,040 A (RAKAVY et al) 15 June 1999 (15.06.1999) See Col. 8, lines 60-67; Col. 10, lines 12-20	1, 3-8, 10-15
Y	US 5,918,014 A (ROBINSON) 29 June 1999 (29.06.1999) See Col. 1, lines 40-45; Col. 3, lines 3-15; Col. 4, lines 40-67; Col. 9, lines 28-30; Col. 16, lines 12-25	1, 7
Y, E	US 6,055,510 A (HENRICK et al) 25 April 2000 (25.04.2000) See Col. 3, lines 13-25 and 45-50	1, 8, 15
		1, 3, 9-10



Further documents are listed in the continuation of Box C.



See patent family annex.

* Special categories of cited documents:	"T"	later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"A" document defining the general state of the art which is not considered to be of particular relevance	"X"	document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"E" earlier application or patent published on or after the international filing date	"Y"	document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
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"O" document referring to an oral disclosure, use, exhibition or other means		
"P" document published prior to the international filing date but later than the priority date claimed		

Date of the actual completion of the international search

01 June 2000 (01.06.2000)

Date of mailing of the international search report

18 SEP 2000

Name and mailing address of the ISA/US

Commissioner of Patents and Trademarks  
Box PCT  
Washington, D.C. 20231

Facsimile No. (703)305-3230

Authorized officer

Emanuel T Voeltz

Telephone No. (703)305-9700

*Rugenia Zagar*

# INTERNATIONAL SEARCH REPORT

International application No.

PCT/US00/08114

## C (Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	US 5,778,367 A (WESINGER, JR et al) 07 July 1998 (07.07.1998) See entire document	1-15
Y	Altia Inc., "Altia Design Propels Into Multimedia Market Creating Animations for Internet Ads", Dialog File 813:PR Newswire, 3 pages, 19 August 1996	1, 9
A	DoubleClick, "DoubleClick Debuts New Tool for Testing Creative on the Web", Dialog File 613:PR Newswire, 2 pages, 20 May 1996	1-15
A	RUSSO, MICHAEL, "E-Mail Marketing for the Roofing Contractor", RSI, Roofing, Siding & Insulation, Vol. 77, Issue 3, pg 14, 3 pages, March 2000	1-15